

Message Text

UNCLASSIFIED

PAGE 01 STATE 205097

42

ORIGIN L-03

INFO OCT-01 NEA-10 ISO-00 SCA-01 SCSE-00 /015 R

DRAFTED BY L/M:HFSHAMWELL:MFM

APPROVED BY L/M:KEMALMBORG

NEA/PAB - MR. AUSTRIAN

----- 035993

R 181526Z AUG 76

FM SECSTATE WASHDC

TO AMEMBASSY KABUL

UNCLAS STATE 205097

E.O. 11652: N/A

TAGS: CGEN, AF

SUBJECT: PROPOSED U.S. - AFGHAN CONSULAR CONVENTION

REF; KABUL 5974

1. DEPT. IS POUCHING COPIES OF U.S.-BULGARIA, U.S.-POLAND AND U.S.-CZECHOSLOVAKIA CONSULAR CONVENTIONS. THESE ARE AMONG THE MOST RECENTLY CONCLUDED BILATERALS AND CONTAIN BROADLY DETAILED PROVISIONS ON CONSULAR NOTIFICATION AND ACCESS, AS WELL AS COMPREHENSIVE TAX EXEMPTION CLAUSES.

2. FOLLOWING IS TEXT OF ARTICLE 38 (COMMUNICATION WITH NATIONALS OF THE SENDING STATE), ARTICLE 21 (EXEMPTION OF THE SENDING STATE FROM DUES AND TAXES ON REAL PROPERTY) AND ARTICLE 11 (ACQUIRING CONSULAR PREMISES AND RESIDENCES):

3. BEGIN QUOTE. ARTICLE 38: COMMUNICATION WITH NATIONALS OF THE SENDING STATE. (1) A CONSULAR OFFICER SHALL BE ENTITLED, IN HIS CONSULAR DISTRICT, TO COMMUNICATE WITH ANY NATIONAL OF THE SENDING STATE, TO RENDER HIM ASSISTANCE OR GIVE HIM ADVICE AND, WHEN NECESSARY, TO ASSURE HIM LEGAL ASSISTANCE. IF A NATIONAL OF THE SENDING STATE DESIRES TO VISIT THE CONSULAR OFFICER OR TO CONVERSE WITH HIM, THE UNCLASSIFIED

UNCLASSIFIED

PAGE 02 STATE 205097

RECEIVING STATE SHALL IN NO WAY RESTRICT THE ACCESS OF SUCH NATIONAL TO THE CONSULATE OF THE SENDING STATE OR PREVENT THE CONSULAR OFFICER OF THE SENDING STATE FROM VISITING SUCH A NATIONAL. (2) IN ANY CASE IN WHICH A NATIONAL OF THE SENDING STATE IS SUBJECTED TO ANY FORM OF DEPRIVATION OR LIMITATION OF HIS PERSONAL FREEDOM, THE COMPETENT AUTHORITIES OF THE RECEIVING STATE SHALL INFORM THE CONSULATE OF THE SENDING STATE IMMEDIATELY AND, IN ANY EVENT, NOT LATER THAN AFTER THREE CALENDAR DAYS FROM THE DATE ON WHICH THE NATIONAL WAS PLACED UNDER ANY FORM OF DEPRIVATION OR LIMITATION OF PERSONAL FREEDOM. UPON HIS REQUEST, A CONSULAR OFFICER SHALL BE INFORMED OF THE REASONS FOR WHICH THE NATIONAL HAS BEEN ARRESTED OR DEPRIVED OF PERSONAL FREEDOM. (3) THE COMPETENT AUTHORITIES OF THE RECEIVING STATE SHALL IMMEDIATELY INFORM THE NATIONAL OF THE SENDING STATE OF THE RIGHTS ACCORDED TO HIM BY THIS ARTICLE TO COMMUNICATE WITH A CONSULAR OFFICER. (4) A CONSULAR OFFICER SHALL BE ENTITLED TO RECEIVE FROM AND SEND TO A NATIONAL OF THE SENDING STATE WHO IS UNDER ANY FORM OF DEPRIVATION OR LIMITATION OF HIS PERSONAL FREEDOM LETTERS OR OTHER FORMS OF CORRESPONDENCE AND TO TAKE APPROPRIATE MEASURES TO ENSURE HIM LEGAL ASSISTANCE AND REPRESENTATION. (5) A CONSULAR OFFICER SHALL BE ENTITLED TO VISIT A NATIONAL OF THE SENDING STATE WHO IS UNDER ANY FORM OF DEPRIVATION OR LIMITATION OF HIS PERSONAL FREEDOM, INCLUDING SUCH NATIONAL WHO IS IN PRISON OR DETAINED IN THE CONSULAR DISTRICT PURSUANT TO A JUDGMENT, TO CONVERSE AND TO CORRESPOND WITH HIM IN THE LANGUAGE OF THE SENDING OR THE RECEIVING STATE OR TO ARRANGE LEGAL REPRESENTATION FOR HIM. THESE VISITS SHALL TAKE PLACE AS SOON AS POSSIBLE, BUT, IN ANY CASE, SHALL NOT BE REFUSED AFTER THE EXPIRATION OF A PERIOD OF FOUR CALENDAR DAYS FROM THE DATE ON WHICH SUCH NATIONAL HAS BEEN SUBJECTED TO ANY FORM OF DEPRIVATION OR LIMITATION OF PERSONAL FREEDOM. THE VISITS MAY BE MADE ON A RECURRING BASIS, BUT, SUBJECT TO LOCAL PRISON REGULATIONS, AT INTERVALS OF NOT MORE THAN ONE MONTH. (6) IN THE CASE OF A TRIAL OF A NATIONAL OF THE SENDING STATE IN THE RECEIVING STATE, THE APPROPRIATE AUTHORITIES SHALL, AT THE REQUEST OF A CONSULAR OFFICER, INFORM SUCH OFFICER OF THE CHARGES AGAINST SUCH NATIONAL.

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 STATE 205097

A CONSULAR OFFICER MAY ATTEND THE TRIAL OF SUCH NATIONAL AS WELL AS ALL SUBSEQUENT APPEAL PROCEEDINGS. (7) A NATIONAL TO WHOM THE PROVISIONS OF THIS ARTICLE APPLY MAY RECEIVE FROM A CONSULAR OFFICER PARCELS CONTAINING FOOD, CLOTHES, MEDICAMENTS AND READING AND WRITING MATERIALS TO THE EXTENT THE APPLICABLE REGULATIONS OF THE INSTITUTION IN WHICH HE IS DETAINED SO PERMIT. (8) THE RIGHTS CONTAINED IN THIS ARTICLE SHALL BE EXERCISED IN ACCORDANCE

WITH THE LAW OF THE RECEIVING STATE, PROVIDED THAT SUCH

LAW MUST BE APPLIED SO AS TO GIVE FULL EFFECT TO THE PURPOSES FOR WHICH THESE RIGHTS ARE INTENDED.

4. ARTICLE 21: EXEMPTION OF THE SENDING STATE FROM DUES AND TAXES ON REAL PROPERTY. (1) NO NATIONAL, REGIONAL OR LOCAL DUES OR TAXES OF ANY KIND SHALL BE IMPOSED OR COLLECTED IN THE RECEIVING STATE IN RESPECT OF -- (A) GROUNDS, BUILDINGS OR PARTS OF BUILDINGS OWNED OR LEASED BY THE SENDING STATE OR BY A NATURAL OR JURIDICAL PERSON ACTING ON BEHALF OF THAT STATE AND USED EXCLUSIVELY FOR ANY OF THE PURPOSES SPECIFIED IN ARTICLE 11 OF THIS CONVENTION; (B) TRANSACTIONS OR DOCUMENTS RELATING TO THE ACQUISITION OF SUCH IMMOVABLE PROPERTY. (2) THE PROVISIONS OF SUB-PARAGRAPH 1(A) OF THIS ARTICLE SHALL NOT APPLY WITH REGARD TO PAYMENTS FOR SPECIFIC SERVICES RENDERED. (3) THE EXEMPTION ACCORDED UNDER PARAGRAPH 1 OF THIS ARTICLE SHALL NOT APPLY TO SUCH DUES AND TAXES, IF UNDER THE LAW OF THE RECEIVING STATE THEY ARE PAYABLE BY A PERSON CONTRACTING WITH THE SENDING STATE OR WITH A PERSON ACTING ON ITS BEHALF.

5. ARTICLE 11: ACQUIRING CONSULAR PREMISES AND RESIDENCE (1) THE SENDING STATE SHALL HAVE THE RIGHT, IN THE TERRITORY OF THE RECEIVING STATE, IN ACCORDANCE WITH THE LAW OF THE RECEIVING STATE, TO ACQUIRE, OWN, LEASE FOR ANY PERIOD OF TIME, CONSTRUCT AND IMPROVE, OR OTHERWISE HOLD AND OCCUPY SUCH GROUNDS, BUILDINGS AND APPURTENANCES AS MAY BE NECESSARY AND APPROPRIATE FOR CONSULAR PURPOSES, INCLUDING RESIDENCES FOR CONSULAR OFFICERS AND CONSULAR EMPLOYEES WHO ARE NOT NATIONALS OR PERMANENT RESIDENTS OF THE RECEIVING STATE. (2) THE RECEIVING STATE SHALL RENDER ALL UNCLASSIFIED

UNCLASSIFIED

PAGE 04 STATE 205097

NECESSARY ASSISTANCE TO THE SENDING STATE WITH A VIEW TO FACILITATING THE ACQUISITION OF GROUNDS, BUILDINGS OR PARTS OF BUILDINGS FOR THE PURPOSES MENTIONED IN PARAGRAPH 1 OF THIS ARTICLE. (3) THE PROVISIONS OF PARAGRAPH 1 OF THIS ARTICLE DO NOT EXEMPT THE SENDING STATE FROM THE OBLIGATION TO OBSERVE THE LAW OF THE RECEIVING STATE RELATING TO CONSTRUCTION AND ZONING APPLICABLE TO THE REGION IN WHICH THE RESPECTIVE GROUNDS, BUILDINGS OR PARTS OF BUILDINGS ARE LOCATED. END QUOTE.

6. DEPT. WILL BE PLEASED TO ANSWER SPECIFIC QUESTIONS ON THESE ISSUES AS WELL AS PROVIDE GENERAL GUIDANCE ON PROCEDURES FOR NEGOTIATING BILATERAL CONSULAR CONVENTIONS. KISSINGER

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 18 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE205097
Document Source: CORE
Document Unique ID: 00
Drafter: HFSHAMWELL:MFM
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760317-0101
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760842/aaaabjxs.tel
Line Count: 167
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN L
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 76 KABUL 5974
Review Action: RELEASED, APPROVED
Review Authority: CunninFX
Review Comment: n/a
Review Content Flags:
Review Date: 21 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 APR 2004 by ReddocGW>; APPROVED <08 DEC 2004 by CunninFX>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PROPOSED U.S. - AFGHAN CONSULAR CONVENTION
TAGS: CGEN, AF
To: KABUL
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006